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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,347	08/20/2003	Bradley P. Etherton	LYON 0169 PUS	5848
22045	7590	02/02/2005	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			MULLIS, JEFFREY C	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/644,347	ETHERTON ET AL.	
	Examiner	Art Unit	
	Jeffrey C. Mullis	1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-20 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>504</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1711

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "microfine polymer powder" is unclear in that it is subjective as to what particle sizes would be embraced by the term "microfine". While applicants' specification defines this term as embracing particle sizes of 1-500 microns, the term "particle sizes" as recited on page three of applicants' specification is itself unclear since particle sizes exist as a distribution of diameters and will therefore vary depending on the type of particle size, for instance number average or weight average particle sizes.

As melt index will vary depending on the load and temperature of measurement and as such information is not recited in claim 13, claim 13 is unclear.

Claims 9-14 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9 recites that the polyolefin is grafted despite the fact that the claims from which claim 9 depends already recites that the polyolefin is grafted.

The closest prior art is Trinh et al. ("Trinh", US 5,714,445). However, Trinh does not explicitly teach that their cyclodextrin is reacted with a grafted microfine polymer powder as required by the claims. While Trinh discloses that the cyclodextrin may be "bound" or "attached" to a polymer (with said polymer being grafted or ungrafted) there is no explicit disclosure that reacting (i.e. chemically bound or "attached") and in fact

Art Unit: 1711

Trinh's polymers in fact do not necessarily contain groups which are reactive with cyclodextrin and in fact Trinh discloses the use of nonreactive binders for binding and attaching. Furthermore Example 5 of Trinh is the only example in which a grafted polymer which could be remotely viewed as "microfine" no matter how the term "microfine" is intended to be used by applicants and does not disclose sufficient detail such that an argument could be made that "reacting" is inherent. Note in this regard that a temperature of "8020C" is disclosed, an obvious misprint where those skilled in the art would not be able to realize what the correct process temperature was, necessary information to make an inherency argument regarding reacting. Lastly, there is no teaching or suggestion to perform applicants step "b" in Trinh.

With regard to Thuaut et al., cited by applicants', the grafted polymer web of the authors cannot be said to be "microfine" by any reasonable interpretation of "microfine" nor is applicants' step "b" disclosed or suggested, is a product disclosed which reasonably appears to be the same or slightly different that applicants despite being produced by a different process.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 703 308 2820.

Jeffrey C. Mullis
J Mullis
Art Unit 1711

JCM

1-26-05

